

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

385Q0168

## HOUSE BILL NO. 1110

Introduced by: Representatives Engels, Blake, Burg, Cutler, Dennert, Elliott, Fargen, Feickert, Feinstein, Frerichs, Gibson, Iron Cloud III, Killer, Kirschman, Lange, Lucas, Lust, Noem, Peters, Schrempp, Sorenson, Street, Thompson, and Vanderlinde and Senators Gant, Abdallah, Bradford, Heidepriem, Jerstad, Miles, Tieszen, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions relating to limited liability for  
2 Y2K litigation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 21-59-1 be repealed.

5 ~~—21-59-1. Terms used in this chapter mean:~~

6 ~~—(1)—"Computer," any electronic device or group, network, or other combination of~~  
7 ~~devices using silicon chips, embedded chips, or other electronic systems or processes~~  
8 ~~to store, process, or manipulate information whether independently or in connection~~  
9 ~~with other electronic devices or other machinery or any other device included under~~  
10 ~~§ 43-43B-2;~~

11 ~~—(2)—"Computer software," any set of instructions, computations, or other data stored or~~  
12 ~~recorded on an electronic or other medium that causes or allows a computer to~~  
13 ~~perform specific functions, calculations, or other activities or any other device~~



1 included under ~~§ 43-43B-2~~;

2 ~~— (3) — "Year 2000 disruption," any malfunction or failure of a computer or computer~~  
3 ~~software due to an inability or failure to properly perform operations, computations,~~  
4 ~~or other functions or to properly store, display, transmit, or otherwise manipulate data~~  
5 ~~as a result of an inability or failure to recognize or process dates using the year 2000~~  
6 ~~or any subsequent year;~~

7 ~~— (4) — "Year 2000 compliance," reasonable consultation, assessment, analysis, testing, or~~  
8 ~~contingency planning in conformance with generally accepted computer or computer~~  
9 ~~software standards that indicates that any computer or computer software will not~~  
10 ~~suffer a material Year 2000 disruption; or installation of any new computer or~~  
11 ~~computer software or any upgrade to any computer or computer software which is~~  
12 ~~warranted, guaranteed, or otherwise marketed to comply with generally accepted~~  
13 ~~design standards to avoid Year 2000 disruption.~~

14 Section 2. That § 21-59-2 be repealed.

15 ~~— 21-59-2. In any lawsuit based on any Year 2000 disruption, evidence of Year 2000~~  
16 ~~compliance creates a rebuttable presumption that any injury based on a Year 2000 disruption~~  
17 ~~was not caused by negligence of the defendant or that, in any action based on breach of contract~~  
18 ~~resulting from a Year 2000 disruption, failure to perform under the contract was not the fault~~  
19 ~~of the defendant.~~

20 Section 3. That § 21-59-3 be repealed.

21 ~~— 21-59-3. Nothing in §§ 21-59-1 and 21-59-2 abrogates or limits rights under § 57A-2-318.~~